

BOIES SCHILLER FLEXNER LLP
Mark C. Mao (CA Bar No. 236165)
mmao@bsflp.com
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (415) 293 6858
Facsimile: (415) 999 9695

SUSMAN GODFREY L.L.P.
William Christopher Carmody (pro hac vice)
bcarmody@susmangodfrey.com
Shawn J. Rabin (pro hac vice)
srabin@susmangodfrey.com
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (212) 336-8330

MORGAN & MORGAN
John A. Yanchunis (pro hac vice)
jyanchunis@forthepeople.com
Ryan J. McGee (pro hac vice)
rmcgee@forthepeople.com
201 N. Franklin Street, 7th Floor
Tampa, FL 33602
Telephone: (813) 223-5505

*Attorneys for Plaintiffs; additional counsel
listed in signature blocks below*

QUINN EMANUEL URQUHART &
SULLIVAN, LLP
Andrew H. Schapiro (*pro hac vice*)
andrewschapiro@quinnemanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, IL 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401

Stephen A. Broome (CA Bar No. 314605)
stephenbroome@quinnemanuel.com
Viola Trebicka (CA Bar No. 269526)
violatrebicka@quinnemanuel.com
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

Jomaire A. Crawford (admitted *pro hac vice*)
jomairecrawford@quinnemanuel.com
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100

*Attorneys for Defendant; additional counsel
listed in signature blocks below*

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, *et al.*,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**JOINT SUBMISSION IN RESPONSE TO
DKTS. 447 AND 449 RE: SEALING
PORTIONS OF MARCH 2, 2022 ORDER**

Referral: Hon. Susan van Keulen, USMJ

1 March 8, 2022

2 Submitted via ECF

3 Magistrate Judge Susan van Keulen
4 San Jose Courthouse
5 Courtroom 6 - 4th Floor
6 280 South 1st Street
7 San Jose, CA 95113

8 Re: Joint Submission in Response to Dkts. 447 and 449 re: Sealing Portions of March
9 2, 2022 Order Re Discovery Disputes P25, P26, and P29
10 *Brown v. Google LLC*, Case No. 4:20-cv-03664-YGR-SVK (N.D. Cal.)

11 Dear Magistrate Judge van Keulen:

12 Pursuant to Your Honor's March 2, 2022 Redaction Order re: sealing portions of March 2,
13 2022 Order Re Discovery Disputes P25, P26, and P29, Plaintiffs and Google LLC ("Google") jointly
14 submit this statement.
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Google respectfully seeks to seal the following portions of Exhibit A of the March 1, 2022 Order Following February 28, 2022 Discovery Hearing (“Order”), which contain personal and private medical information related to a Google employee, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public. Google previously sought to seal most of the same information in Docket No. 459. This information is highly confidential and should be protected.

This Administrative Motion pertains to the following information contained in the Order:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality
Exhibit A of Order	Portions highlighted in yellow at: Page 7-8	Google

The parties conferred on the proposed redactions to the Order. Plaintiffs support sealing the proposed redactions.

I. LEGAL STANDARD

The common law right of public access to judicial records in a civil case is not a constitutional right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have refused to permit their files to serve as reservoirs of . . . sources of business information that might harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue constitutes “competitively sensitive information,” such as “confidential research, development, or commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of information, including, but not limited to, trade secrets or other confidential research, development, or commercial information”).

II. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE” STANDARD AND SHOULD ALL BE SEALED

1 Courts have repeatedly found it appropriate to seal documents that contain medical
2 information or “business information that might harm a litigant’s competitive standing.” *Nixon*, 435
3 U.S. at 589-99; *see also Turner v. United States*, 2019 WL 4732143, at *9 (finding good cause to seal
4 “confidential medical information”). Good cause to seal is shown when a party seeks to seal materials
5 that “contain[] confidential information about the operation of [the party’s] products and that public
6 disclosure could harm [the party] by disclosing confidential technical information.” *Digital Reg. of*
7 *Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that
8 could harm a litigant’s competitive standing may be sealed even under the “compelling reasons”
9 standard. *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at *2
10 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’
11 standard where that information could be used to the company’s competitive disadvantage”) (citation
12 omitted).

13 Here, Exhibit A of the Order comprises confidential information regarding the personal and
14 private medical information of a Google employee that Google does not share publicly and should not
15 otherwise be disclosed.

16 The information Google seeks to redact is the minimal amount of information needed to
17 protect the personal and private medical information of its employee. The “good cause” rather than
18 the “compelling reasons” standard should apply but under either standard, Google’s sealing request is
19 warranted.

20 **III. CONCLUSION**

21 For the foregoing reasons, Google respectfully requests that the Court seal the identified portions
22 of Exhibit A of the Order.
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Respectfully,

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

BOIES SCHILLER FLEXNER LLP

/s/ Andrew H. Schapiro

/s/ Mark C. Mao

Andrew H. Schapiro (admitted *pro hac vice*)
andrewschapiro@quinnemanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, IL 60606
Tel: (312) 705-7400
Fax: (312) 705-7401

Mark C. Mao (CA Bar No. 236165)
mmao@bsflp.com
Sean Phillips Rodriguez (CA Bar No.
262437)
srodriguez@bsflp.com
Beko Reblitz-Richardson (CA Bar No.
238027)
brichardson@bsflp.com
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Tel: (415) 293 6858
Fax: (415) 999 9695

Stephen A. Broome (CA Bar No. 314605)
sb@quinnemanuel.com
Viola Trebicka (CA Bar No. 269526)
violatrebicka@quinnemanuel.com
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Tel: (213) 443-3000
Fax: (213) 443-3100

James W. Lee (*pro hac vice*)
jlee@bsflp.com
Rossana Baeza (*pro hac vice*)
rbaeza@bsflp.com
100 SE 2nd Street, Suite 2800
Miami, FL 33130
Tel: (305) 539-8400
Fax: (305) 539-1304

Diane M. Doolittle (CA Bar No. 142046)
dianedoolittle@quinnemanuel.com
555 Twin Dolphin Drive, 5th Floor
Redwood Shores, CA 94065
Telephone: (650) 801-5000
Facsimile: (650) 801-5100

William Christopher Carmody (*pro hac*
vice)
bcarmody@susmangodfrey.com
Shawn J. Rabin (*pro hac vice*)
srabin@susmangodfrey.com
Steven Shepard (*pro hac vice*)
sshepard@susmangodfrey.com
Alexander P. Frawley (*pro hac vice*)
afrawley@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Tel: (212) 336-8330

Jomaire A. Crawford (admitted *pro hac vice*)
jomairecrawford@quinnemanuel.com
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100

Amanda Bonn (CA Bar No. 270891)
abonn@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Tel: (310) 789-3100

Josef Ansorge (admitted *pro hac vice*)
josefansorge@quinnemanuel.com
Carl Spilly (admitted *pro hac vice*)
carlspilly@quinnemanuel.com
1300 I Street NW, Suite 900
Washington D.C., 20005
Tel: (202) 538-8000
Fax: (202) 538-8100

John A. Yanchunis (*pro hac vice*)
jyanchunis@forthepeople.com
Ryan J. McGee (*pro hac vice*)
rmcgee@forthepeople.com
MORGAN & MORGAN, P.A.

Jonathan Tse (CA Bar No. 305468)
jonathantse@quinnemanuel.com
50 California Street, 22nd Floor
San Francisco, CA 94111
Tel: (415) 875-6600
Fax: (415) 875-6700

Attorneys for Defendant Google LLC

1 201 N Franklin Street, 7th Floor
2 Tampa, FL 33602
3 Tel: (813) 223-5505
4 Fax: (813) 222-4736

5 Michael F. Ram (CA Bar No. 104805)
6 mrham@forthepeople.com
7 MORGAN & MORGAN, P.A.
8 711 Van Ness Avenue, Suite 500
9 San Francisco, CA 94102
10 Tel: (415) 358-6913

11 *Attorneys for Plaintiffs*
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ATTESTATION OF CONCURRENCE

I am the ECF user whose ID and password are being used to file this Joint Submission.
Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that each of the signatories identified above has
concurred in the filing of this document.

Dated: March 8, 2022

By /s/ Andrew H. Schapiro
Andrew H. Schapiro
Counsel on behalf of Google LLC